

AMENDED IN ASSEMBLY MAY 23, 2008

AMENDED IN ASSEMBLY APRIL 8, 2008

AMENDED IN ASSEMBLY MARCH 28, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 2093**

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**Introduced by Assembly Member Jones**

February 19, 2008

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An act to amend Section 65302 of the Government Code, relating to land use.

### LEGISLATIVE COUNSEL’S DIGEST

AB 2093, as amended, Jones. General plan: mandatory elements.

(1) The Planning and Zoning Law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city and of any land outside its boundaries that bears relation to its planning. That law requires this general plan to include several elements, including, among others, land use, open-space, safety, and conservation elements, which are required to meet specified requirements. *The Office of Planning and Research is required to develop and adopt guidelines for the preparation and content of the mandatory elements required in city and county general plans.*

This bill, on or before specified dates, would require to be included ~~in the mandatory elements, except for the noise element,~~ *any mandatory element or combination of mandatory elements* consideration to policies that reduce the effects of land use activities and general plan actions on the emission of greenhouse gases in order to help meet the goals of the California Global Warming Solutions Act of 2006. By adding to the

elements that local officials are required to include in a general plan, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 65302 of the Government Code is  
2 amended to read:

3 65302. The general plan shall consist of a statement of  
4 development policies and shall include a diagram or diagrams and  
5 text setting forth objectives, principles, standards, and plan  
6 proposals. The plan shall include the following elements:

7 (a) A land use element that designates the proposed general  
8 distribution and general location and extent of the uses of the land  
9 for housing, business, industry, open space, including agriculture,  
10 natural resources, recreation, and enjoyment of scenic beauty,  
11 education, public buildings and grounds, solid and liquid waste  
12 disposal facilities, and other categories of public and private uses  
13 of land. The location and designation of the extent of the uses of  
14 the land for public and private uses shall consider the identification  
15 of land and natural resources pursuant to paragraph (3) of  
16 subdivision (d). The land use element shall include a statement of  
17 the standards of population density and building intensity  
18 recommended for the various districts and other territory covered  
19 by the plan. The land use element shall identify and annually  
20 review those areas covered by the plan that are subject to flooding  
21 identified by flood plain mapping prepared by the Federal  
22 Emergency Management Agency (FEMA) or the Department of  
23 Water Resources. The land use element also shall do both of the  
24 following:

25 (1) Designate in a land use category that provides for timber  
26 production those parcels of real property zoned for timberland  
27 production pursuant to the California Timberland Productivity Act

1 of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1  
2 of Division 1 of Title 5.

3 (2) Consider the impact of new growth on military readiness  
4 activities carried out on military bases, installations, and operating  
5 and training areas, when proposing zoning ordinances or  
6 designating land uses covered by the general plan for land, or other  
7 territory adjacent to military facilities, or underlying designated  
8 military aviation routes and airspace.

9 (A) In determining the impact of new growth on military  
10 readiness activities, information provided by military facilities  
11 shall be considered. Cities and counties shall address military  
12 impacts based on information from the military and other sources.

13 (B) The following definitions govern this paragraph:

14 (i) "Military readiness activities" mean all of the following:

15 (I) Training, support, and operations that prepare the men and  
16 women of the military for combat.

17 (II) Operation, maintenance, and security of any military  
18 installation.

19 (III) Testing of military equipment, vehicles, weapons, and  
20 sensors for proper operation or suitability for combat use.

21 (ii) "Military installation" means a base, camp, post, station,  
22 yard, center, homeport facility for any ship, or other activity under  
23 the jurisdiction of the United States Department of Defense as  
24 defined in paragraph (1) of subsection (e) of Section 2687 of Title  
25 10 of the United States Code.

26 (b) A circulation element consisting of the general location and  
27 extent of existing and proposed major thoroughfares, transportation  
28 routes, terminals, any military airports and ports, and other local  
29 public utilities and facilities, all correlated with the land use  
30 element of the plan.

31 (c) A housing element as provided in Article 10.6 (commencing  
32 with Section 65580).

33 (d) (1) A conservation element for the conservation,  
34 development, and utilization of natural resources including water  
35 and its hydraulic force, forests, soils, rivers and other waters,  
36 harbors, fisheries, wildlife, minerals, and other natural resources.  
37 The conservation element shall consider the effect of development  
38 within the jurisdiction, as described in the land use element, on  
39 natural resources located on public lands, including military  
40 installations. That portion of the conservation element including

1 waters shall be developed in coordination with any countywide  
2 water agency and with all district and city agencies, including  
3 flood management, water conservation, or groundwater agencies  
4 that have developed, served, controlled, managed, or conserved  
5 water of any type for any purpose in the county or city for which  
6 the plan is prepared. Coordination shall include the discussion and  
7 evaluation of any water supply and demand information described  
8 in Section 65352.5, if that information has been submitted by the  
9 water agency to the city or county.

10 (2) The conservation element also may cover all of the  
11 following:

12 (A) The reclamation of land and waters.

13 (B) Prevention and control of the pollution of streams and other  
14 waters.

15 (C) Regulation of the use of land in stream channels and other  
16 areas required for the accomplishment of the conservation plan.

17 (D) Prevention, control, and correction of the erosion of soils,  
18 beaches, and shores.

19 (E) Protection of watersheds.

20 (F) The location, quantity and quality of the rock, sand and  
21 gravel resources.

22 (3) Upon the next revision of the housing element on or after  
23 January 1, 2009, the conservation element shall identify rivers,  
24 creeks, streams, flood corridors, riparian habitats, and land that  
25 may accommodate floodwater for purposes of groundwater  
26 recharge and stormwater management.

27 (e) An open-space element as provided in Article 10.5  
28 (commencing with Section 65560).

29 (f) (1) A noise element that shall identify and appraise noise  
30 problems in the community. The noise element shall recognize the  
31 guidelines established by the Office of Noise Control in the State  
32 Department of Health Care Services and shall analyze and quantify,  
33 to the extent practicable, as determined by the legislative body,  
34 current and projected noise levels for all of the following sources:

35 (A) Highways and freeways.

36 (B) Primary arterials and major local streets.

37 (C) Passenger and freight on-line railroad operations and ground  
38 rapid transit systems.

39 (D) Commercial, general aviation, heliport, helistop, and military  
40 airport operations, aircraft overflights, jet engine test stands, and

1 all other ground facilities and maintenance functions related to  
2 airport operation.

3 (E) Local industrial plants, including, but not limited to, railroad  
4 classification yards.

5 (F) Other ground stationary noise sources, including, but not  
6 limited to, military installations, identified by local agencies as  
7 contributing to the community noise environment.

8 (2) Noise contours shall be shown for all of these sources and  
9 stated in terms of community noise equivalent level (CNEL) or  
10 day-night average level ( $L_{dn}$ ). The noise contours shall be prepared  
11 on the basis of noise monitoring or following generally accepted  
12 noise modeling techniques for the various sources identified in  
13 paragraphs (1) to (6), inclusive.

14 (3) The noise contours shall be used as a guide for establishing  
15 a pattern of land uses in the land use element that minimizes the  
16 exposure of community residents to excessive noise.

17 (4) The noise element shall include implementation measures  
18 and possible solutions that address existing and foreseeable noise  
19 problems, if any. The adopted noise element shall serve as a  
20 guideline for compliance with the state's noise insulation standards.

21 (g) (1) A safety element for the protection of the community  
22 from any unreasonable risks associated with the effects of  
23 seismically induced surface rupture, ground shaking, ground  
24 failure, tsunami, seiche, and dam failure; slope instability leading  
25 to mudslides and landslides; subsidence, liquefaction, and other  
26 seismic hazards identified pursuant to Chapter 7.8 (commencing  
27 with Section 2690) of Division 2 of the Public Resources Code,  
28 and other geologic hazards known to the legislative body; flooding;  
29 and wild land and urban fires. The safety element shall include  
30 mapping of known seismic and other geologic hazards. It also shall  
31 address evacuation routes, military installations, peakload water  
32 supply requirements, and minimum road widths and clearances  
33 around structures, as those items relate to identified fire and  
34 geologic hazards.

35 (2) The safety element, upon the next revision of the housing  
36 element on or after January 1, 2009, also shall do the following:

37 (A) Identify information regarding flood hazards, including,  
38 but not limited to, the following:

39 (i) Flood hazard zones. As used in this subdivision, "flood  
40 hazard zone" means an area subject to flooding that is delineated

1 as either a special hazard area or an area of moderate or minimal  
2 hazard on an official flood insurance rate map issued by the Federal  
3 Emergency Management Agency. The identification of a flood  
4 hazard zone does not imply that areas outside the flood hazard  
5 zones or uses permitted within flood hazard zones will be free  
6 from flooding or flood damage.

7 (ii) National Flood Insurance Program maps published by  
8 FEMA.

9 (iii) Information about flood hazards that is available from the  
10 United States Army Corps of Engineers.

11 (iv) Designated floodway maps that are available from the  
12 Central Valley Flood Protection Board.

13 (v) Dam failure inundation maps prepared pursuant to Section  
14 8589.5 that are available from the Office of Emergency Services.

15 (vi) Awareness Floodplain Mapping Program maps and 200-year  
16 flood plain maps that are or may be available from, or accepted  
17 by, the Department of Water Resources.

18 (vii) Maps of levee protection zones.

19 (viii) Areas subject to inundation in the event of the failure of  
20 project or nonproject levees or floodwalls.

21 (ix) Historical data on flooding, including locally prepared maps  
22 of areas that are subject to flooding, areas that are vulnerable to  
23 flooding after wildfires, and sites that have been repeatedly  
24 damaged by flooding.

25 (x) Existing and planned development in flood hazard zones,  
26 including structures, roads, utilities, and essential public facilities.

27 (xi) Local, state, and federal agencies with responsibility for  
28 flood protection, including special districts and local offices of  
29 emergency services.

30 (B) Establish a set of comprehensive goals, policies, and  
31 objectives based on the information identified pursuant to  
32 subparagraph (A), for the protection of the community from the  
33 unreasonable risks of flooding, including, but not limited to:

34 (i) Avoiding or minimizing the risks of flooding to new  
35 development.

36 (ii) Evaluating whether new development should be located in  
37 flood hazard zones, and identifying construction methods or other  
38 methods to minimize damage if new development is located in  
39 flood hazard zones.

1 (iii) Maintaining the structural and operational integrity of  
2 essential public facilities during flooding.

3 (iv) Locating, when feasible, new essential public facilities  
4 outside of flood hazard zones, including hospitals and health care  
5 facilities, emergency shelters, fire stations, emergency command  
6 centers, and emergency communications facilities or identifying  
7 construction methods or other methods to minimize damage if  
8 these facilities are located in flood hazard zones.

9 (v) Establishing cooperative working relationships among public  
10 agencies with responsibility for flood protection.

11 (C) Establish a set of feasible implementation measures designed  
12 to carry out the goals, policies, and objectives established pursuant  
13 to subparagraph (B).

14 (3) After the initial revision of the safety element pursuant to  
15 paragraph (2), upon each revision of the housing element, the  
16 planning agency shall review and, if necessary, revise the safety  
17 element to identify new information that was not available during  
18 the previous revision of the safety element.

19 (4) Cities and counties that have flood plain management  
20 ordinances that have been approved by FEMA that substantially  
21 comply with this section, or have substantially equivalent  
22 provisions to this subdivision in their general plans, may use that  
23 information in the safety element to comply with this subdivision,  
24 and shall summarize and incorporate by reference into the safety  
25 element the other general plan provisions or the flood plain  
26 ordinance, specifically showing how each requirement of this  
27 subdivision has been met.

28 (5) Prior to the periodic review of its general plan and prior to  
29 preparing or revising its safety element, each city and county shall  
30 consult the California Geological Survey of the Department of  
31 Conservation, the Central Valley Flood Protection Board, if the  
32 city or county is located within the boundaries of the Sacramento  
33 and San Joaquin Drainage District, as set forth in Section 8501 of  
34 the Water Code, and the Office of Emergency Services for the  
35 purpose of including information known by and available to the  
36 department, the office, and the board required by this subdivision.

37 (6) To the extent that a county's safety element is sufficiently  
38 detailed and contains appropriate policies and programs for  
39 adoption by a city, a city may adopt that portion of the county's

1 safety element that pertains to the city's planning area in  
2 satisfaction of the requirement imposed by this subdivision.

3 ~~(7) (A) For each of the elements specified in this section, except~~  
4 ~~the noise element specified in subdivision (f), consideration shall~~

5 *(h) (1) For each of the elements specified in this section,*  
6 *consideration shall be given to policies that reduce the effects of*  
7 *land use activities and general plan actions on the emission of*  
8 *greenhouse gases in order to help meet the goals of the California*  
9 *Global Warming Solutions Act of 2006 (Division 25.5*  
10 *(commencing with Section 38500) of the Health and Safety Code).*  
11 *The city or county may include the policies in any element or*  
12 *combination of elements to meet the intent of this subdivision.*

13 ~~(B)~~

14 (2) Cities and counties shall comply with this paragraph on or  
15 before one of the following dates, whichever is earlier:

16 (i)

17 (A) The date of the city's or county's next general plan update.

18 (ii)

19 (B) A date that is one year after the date specified in Section  
20 65588 for the next revision of the city's or county's housing  
21 element that occurs after July 1, 2009.

22 (3) *For purposes of subdivision (a) of Section 65040.2, the*  
23 *requirements of this subdivision shall not be considered to be*  
24 *additional elements that require the adoption of guidelines within*  
25 *six months.*

26 SEC. 2. The Legislature finds and declares that Sections 65104  
27 and 66014 of the Government Code provide local agencies with  
28 authority to levy fees sufficient to pay for the program or level of  
29 service mandated by this act.

30 SEC. 3. No reimbursement is required by this act pursuant to  
31 Section 6 of Article XIII B of the California Constitution because  
32 a local agency or school district has the authority to levy service  
33 charges, fees, or assessments sufficient to pay for the program or  
34 level of service mandated by this act, within the meaning of Section  
35 17556 of the Government Code.

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